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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/483,399	01/14/2000	Michael L. Trompower	TELNP200US	8324

23623	7590	07/05/2005

EXAMINER
MEHRPOUR, NAGHMEH

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ART UNIT	PAPER NUMBER
2686	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action *Before the Filing of an Appeal Brief*	09/483,399	TROMPOWER, MICHAEL L.
	Examiner	**Art Unit**	
	Naghmeh Mehrpour	2686	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>09 May 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒ The period for reply expires <u>4</u> months from the mailing date of the final rejection.

    b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>please see the attachment.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 5/9/05 have been fully considered but they are not persuasive.

In response to the applicant's argument that Paatelma does not disclose, or suggest means for determining transmission power levels of a first and second portion... of a data packet .... Based on a desired transmission range for both the first and second portion as cited in claim 32, the examiner asserts that Paatelma teaches a method for operating a wireless terminal in a wireless communication system, the system determining the transmission power level of a first (header) and second (data) portions based on desired transmission range (reduce the interference) for both header and data portion. In other words, the desire transmission range for the system is to reduce the interference, and when the system determines that the second portion (data portion) is not valid, the system dynamically adjusts the power transmission by transmitting the first portion (header portion) with higher power (col 2 lines 32-41). Therefore, Paatelma <u>does</u> teach means for determining transmission power levels of a first and second portion... of a data packet .... based on a desired transmission range for both the first and second portion as cited in claim 32.

In response to the applicant's argument that neither Paatelma nor Fischer teach a dynamic adjustment of transmission power made to facilitate transmitting the PCLP preamble and the data portion over a substantially similar transmission rang, and Fischer does not disclose altering power between portions of such format (thus cannot

disclose transmission power is adjusted to facilitate transmitting a PLCP preamble and a data portion over a substantially similar transmission range), examiner asserts that Fischer teaches a system and/or methodology ramping up and ramping down power to various sections of a radio in a wireless network, Further Fischer teaches, a Physical Layer Convergence Protocol (PLCP) frame format defined by IEEE standard 802.11 is disclosed as frame format that can be utilized to transfer data between a MAC device and a radio. As mentioned above Paatelma teaches dynamic adjustment of transmission power between the first portion (Header) and second portion (Data portion) in a wireless communication system. Paatelma does not teach that a header section is PLCP frame format. However, Fischer teaches a wireless communication system providing power adjustment for various portion of radio including Header portion with PLCP frame format. Therefore, Paatelma modified by Fischer as cited above teaches a dynamic adjustment of transmission power made to facilitate transmitting the PCLP preamble and the data portion over a substantially similar transmission rang.

In responses to the applicant's argument that Hassan does not disclose, a communication unit that transmit a first portion and a data package at the first data rate and a second portion of the data packet at the second data rate, a third portion and the data packet at a third transmission power level, and nothing relating to transmission power of a message, examiner asserts that Hassan a communication system designed to transmit data from a first Earth-based terminal up to a constellation of satellites in non-geosynchronous orbit and down to a second Earth-based terminal. When the first Earth-based

terminal is in view of at least two satellites in the constellation, the data may be split and a

portion of the data transmitted to each of the satellites in view. For example, suppose that an

Earth-based terminal requests to transmit data [d.sub.1, d.sub.2, d.sub.3, d.sub.4, d.sub.5,

d.sub.6 . . . d.sub.n] at a data rate equal to R bits/second. According to Hassan's invention, the

Earth-based terminal transmits one portion of the data, for example, [d.sub.1, d.sub.2, d.sub.3]

at R.sub.1 bits/second to one satellite and transmits another portion the data [d.sub.4, d.sub.5,

d.sub.6 . . . d.sub.n] at R.sub.2 bits/second to the other satellite, where the sum of R.sub.1

bits/second plus R.sub.2 bits/second equal R bits/second, and where the data portion [d.sub.1,

d.sub.2, d.sub.3] is different from the data portion [d.sub.4, d.sub.5, d.sub.6 . . . d.sub.n]. The

first and second satellites then transmit the portion of data received at R.sub.1 bits/second and

the portion of data received at R.sub.2 bits/second, respectively, via one or more intermediate

relay satellites or directly down to the second Earth-based terminal, which reassembles the

portions of data into the original data [d.sub.1, d.sub.2, d.sub.3, d.sub.4, d.sub.5, d.sub.6 . . .

d.sub.n] (col 3 lines 32-55).

Hassan's invention is directed to a constellation-based satellite communication system and, in an

exemplary embodiment, provides a technique for transmitting data from a first Earth-based

terminal to a first and second satellite in non-geosynchronous earth orbits. The first Earth-based

terminal includes an antenna system to communicate with the first and second satellites and a

transmitter coupled to the antenna to transmit to the first and second satellites. The transmitter

transmits a request for a communication link with the first satellite at a first data rate. A receiver

in the first Earth based terminal is coupled to the antenna system to receive from the first and

second satellites. The receiver receives a reply from the first satellite in response to the request

for a communication link. If the reply indicates that a communication link is available at the first

data rate, a connection is established and transmission initiated. If, however, the reply indicates

that the first data rate is not available and only a second data rate (less than the first data rate) is

available, then a request for a communication link is transmitted to the second satellite. If a

reply from the second satellite indicates that a communication link is available, then a

communication link is established with both the first and second satellites (col 1 lines 60-67, col

2 lines 1-17). Hassan further teaches a system includes a communication controller, which, in

response to the reply from the first satellite, apportions the data into first and second data

portions. The transmitter establishes a first communication link with the first satellite to transmit

the first data portion to the first satellite at the second data rate and, while maintaining the first

communication link, establishes a second communication link with the second satellite to

transmit the second data portion to the second satellite at a third data rate (which, when summed

with the second data rate equals the first data rate) (col 2 lines 17-27). Therefore, Hassan does

teach a communication unit that transmit a first portion and a data package at the first data rate

and a second portion of the data packet at the second data rate. In addition in col 2 lines 55-62,

Hassan teaches a system that further includes a third satellite in Earth orbit wherein the

communication controller apportions the data into first, second and third different data portions

and the transmitter, while maintaining the first and second communication links, establishes a

third communication link with the third satellite to transmit the third data portion to the third

satellite at a fourth data rate less than the first data rate. Therefore, Hassan teaches a third portion

and the data packet at a third transmission power level. In conclusion in order to provide a

system that has a better performance with high signal qualities, Paatelma modified by Hassan.

Conclusion

2.   **Any responses to this action should be mailed to:**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naghmeh Mehrpour whose telephone number is 571-272-7913. The examiner can normally be reached on 8:00- 6:00.
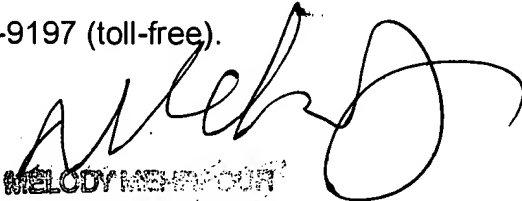
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold be reached (571) 272-7905.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NM

June 27, 2005

MELODY MEHRPOUR
PATENT EXAMINER